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SCHEDULES.

SECOND SCHEDULE

Section 38.

RELIEF FROM EXCESS PROFITS DUTY IN RESPECT OF TRADING STOCKS

PART I

1 If any person being the owner of any trade or business at the end of the final accounting period proves that the amount at which the whole of the trading stock in hand at the end of that period is brought into account for the purposes of duty exceeds the value as on the thirty-first day of August, nineteen hundred and twenty-one, of an equal quantity of similar stock, the amount of that excess shall be allowed as a deduction in computing the excess profits of the final accounting period or as an addition to any deficiency for that period, as the case may be.

2 In any case where the accounts of the trade or business have not been made up at the end of the final accounting period, the foregoing provisions of this Part of this Schedule shall have effect as though a reference to the trading stock in hand at the latest date at which the accounts of the trade or business were made up before the end of the final accounting period were substituted for the reference to the trading stock in hand at the end of the final accounting period, and as though the amount to be allowed as a deduction or addition as aforesaid were reduced by a proportionate amount to be computed in accordance with the following provisions of this paragraph.

For the purposes of computing the proportionate amount aforesaid, there' shall be ascertained the sum by which the amount at which the whole of the trading stock in hand at the latest date at which the accounts of the trade or business were made up before the end of the final accounting period (in this paragraph referred to as "the first date") was brought into account for the purposes of the duty exceeds the value as on the earliest date at which the accounts of the trade or business are made up after the end of the final accounting period (in this paragraph referred to as "the second date") of an equal quantity of similar stock, and the proportionate amount shall be taken to be an amount which bears the same proportion to the sum ascertained as aforesaid as the length of the period between the first date and the end of the final accounting period bears to the length of the period between the first date and the second date.

3 For the purpose of the foregoing provisions of this Part of this Schedule, there shall be excluded from stock in hand any stock of which a valuation at a constant price has been accepted by the Commissioners of Inland Revenue for purposes of duty.

4 The amount to be allowed as a deduction or addition under the foregoing provisions of this Part of this Schedule shall not in any case exceed the amount by which the profits of the trade or business for the period from the end of the final accounting period to the thirty-first day of August, nineteen hundred and twenty-one, fall short of the percentage standard of that trade or business, or, if there has not been one pre-war trade year, fall short of the pre-war standard of profits based on the statutory

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percentage on the average amount of capital employed in the trade or business during the first accounting period, and, if the profits aforesaid are not less than such standard, the provisions of this Part of this Schedule shall not apply.

- 5 (1) If any person being the owner of a trade or business at the end of the final accounting period (hereinafter referred to as " the trader ") proves—
- (a) that during the period between the end of the final accounting period and the thirty-first day of August, nineteen hundred and twenty-one, inclusive (hereinafter referred to as " the aforesaid period "), trading stock has been delivered to him for the purposes of the trade or business under written contracts which were entered into in conformity with the general course of his business and were binding on him at the end of the final accounting period and provided for the purchase by him at a specified price of the stock so delivered (hereinafter referred to as " forward stock "); and
 - (b) that the purchase price of the forward stock was not less than one-third of the amount at which the whole of the trading stock in hand at the end of the final accounting period, or, where the accounts of the trade or business have not been made up at the end of the final accounting period, at the latest date on which the accounts of the trade or business were made up before the end of the final accounting period, was brought into account for the purposes of duty; and
 - (c) that he has sustained a deficit within the meaning of of the following provisions of this Part of this Schedule;

the amount of that deficit shall be allowed as a deduction in computing the excess profits of the final accounting period or as an addition to any deficiency for that period, as the case may be :

Provided that the quantity of forward stock to be taken into account for the purposes of this paragraph shall not exceed the yearly average quantity of similar stock which was delivered under contracts for future delivery during the three years terminating either at the end of the final accounting period or at the end of the last pre-war trade year, as the trader may elect, or, if the business was not in existence for three years before the end of the final accounting period, such quantity of stock as, having regard to the extent and character of the trade or business, is reasonable.

- (2) The amount of the deficit to be allowed as aforesaid shall be computed as follows :—
- (a) If any quantities of stock similar to the forward stock have, during the aforesaid period, been delivered by the trader to purchasers, in pursuance of written contracts providing for the sale of stock at specified prices and binding on the trader at the end of the final accounting period, or if any quantities of such similar stock have been used by the trader in the manufacture of stock which has been delivered during the aforesaid period to purchasers in pursuance of such contracts, there shall be ascertained the aggregate amount of the values, at the date of the said contracts or of the earlier of those contracts, of those quantities of similar stock, up to an amount not exceeding the quantity of the forward stock ;
 - (b) If the quantity of the forward stock exceeds the said quantities of similar stock, there shall be ascertained the value at the thirty-first day of August, nineteen hundred and twenty-one, of an amount of similar stock equal to the excess ;
 - (c) There shall be ascertained the amount by which the purchase price of the forward stock exceeds the aggregate of the amounts ascertained under paragraphs (a) and (b) ;

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- (d) The amount of the deficit to be allowed shall be the amount by which one-half of the amount ascertained under paragraph (c) exceeds an amount equal to one-third of the retainable excess profits ;

Provided that the amount to be allowed in the case of any trade or business as a deficit under this paragraph shall not be such an amount as will, when added to any amount to be allowed as a deduction or addition under the first four paragraphs of this Part of this Schedule, exceed the amount of the trading loss sustained in the trade or business during the aforesaid period.

- (3) For the purposes of this paragraph—
- (a) the expression "retainable excess profits" means the amount by which the aggregate amount of the excess-profits on which the trader was chargeable to duty in respect of the trade or business, less any deficiencies or losses in respect of which he is entitled to repayment or set-off of duty, exceeds the aggregate amount of the duty paid and the Munitions Exchequer payments made by him in respect of those profits, less any amounts repaid to him, and in ascertaining the retainable excess profits any relief granted under this Schedule shall not be taken into account:
- (b) the amount of the trading loss shall be ascertained on the basis on which the profits of a trade or business are ascertained for the purposes of duty, except that no adjustment shall be made under section forty-one of the principal Act in respect of increased or decreased capital, and no deduction shall be made in respect of interest paid to a proprietor or partner in the trade or business, or to a director of a company in which the directors hold the controlling interest.
- (4) Nothing in the provisions of this Part of this Schedule shall be taken to entitle a person, otherwise than as is expressly provided by those provisions, to claim that a fall in the value of trading stock which had not come into his possession until after the expiration of an) period is to be treated in computing profits or losses as a loss arising in that period.

6 No claim under this Part of this Schedule shall be allowed unless the accounts of the trade or business are made up to the thirty-first day of August, nineteen hundred and twenty-one.

7 Where a trade or business has, after the end of the final accounting period and before the thirty-first day of August, nineteen hundred and twenty-one, ceased or changed ownership, this Part of this Schedule shall apply as if the date of the cessation or change of ownership were substituted for the thirty-first day of August, nineteen hundred and twenty-one.

PART II

1 If any person who is at the end of the final accounting period the owner of any trade or business proves that he has sustained a loss on the sale at any time during the period between the first day of September, nineteen hundred and twenty-one, and the thirty-first day of August, nineteen hundred and twenty-three, both inclusive (in this Part of this Schedule referred to as "the sales period"), of the whole of the trading stock in hand on the thirty-first day of August, nineteen hundred and twenty-one, the amount of the loss shall be allowed as a deduction in computing the excess profits of the final accounting period or as an addition to any deficiency for that period, as the case may be :

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Provided that, for the purpose of the foregoing provision, there shall be excluded from stock in hand any stock of which a valuation at a constant price has been accepted by the Commissioners of Inland Revenue for the purposes of duty.

2 For the purposes of this Part of this Schedule, the amount of the loss on sales of stock shall be computed by deducting from the cost of the stock, or, if the value of the stock as on the thirty-first day of August, nineteen hundred and twenty-one, is less than its cost, from that value, a sum computed in accordance with the following provisions of this Part of this Schedule (in this Part of this Schedule referred to as "the realised sum").

3 Where the quantity of any particular class of trading stock which is in hand on the thirty-first day of August, nineteen hundred and twenty-one, is not greater than the quantity of the same class of stock sold during the sales period, the realised sum shall be taken to be the sum realised on sales of stock up to the time at which the quantity of stock of that class sold first reaches the quantity of stock so in hand.

4 Where the quantity of any particular class of trading stock which is in hand on the thirty-first day of August, nineteen hundred and twenty-one, exceeds the quantity of the same class of trading stock sold during the sales period, the realised sum shall be taken to be the sum realised on the sales of stock of that class with the addition of an amount equal to the value as on the thirty-first day of August, nineteen hundred and twenty-three, of a quantity of stock of that class equal to the quantity by which the stock in hand exceeds the quantity of stock of the same class sold.

5 For the purposes of this Part of this Schedule, trading stock sold during the sales period shall not be deemed to be of a different class from trading stock in hand on the thirty-first day of August, nineteen hundred and twenty-one, by reason only that the stock sold has passed through a further stage of manufacture:

Provided that—

(a) Where a particular class of trading stock in hand on the thirty-first day of August, nineteen hundred and twenty-one, consists of similar stock in different stages of manufacture and the quantity sold during the sales period is less than the quantity so in hand, the quantity sold shall be deemed to consist of that part of the stock which on the thirty-first day of August, nineteen hundred and twenty-one, was completely or most nearly completely manufactured ; and

(b) Where the stock sold has passed through a further process of manufacture than that undergone by the stock in hand on the thirty-first day of August, nineteen hundred and twenty-one, the realised sum shall, for purposes of this Part of this Schedule, be reduced by the cost of the material and labour employed in the further process of manufacture, and the loss to be allowed under paragraph 1 of this Part of this Schedule shall, instead of being the full amount ascertained in accordance with the provisions of paragraph 2 of this Part of this Schedule, be an amount which bears to that full amount the same proportion as the amount of the cost or value, as the case may be, mentioned in the said paragraph 2 bears to the amount of that cost or value increased by the cost of the material and labour aforesaid.

6 For the purposes of this Part of this Schedule where trading stock is sold during the sales period at a price less than its value at the time when the price is determined, the realised sum shall be taken to be the value at that time.

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7 A claim under this Part of this Schedule shall not be allowed unless the stock of the trade or business is actually taken on the thirty-first day of August, nineteen hundred and twenty-one.

8 Where a trade or business has, during the sales period, ceased or changed ownership this Part of this Schedule shall apply as if the date of the cessation or change of ownership were substituted for the thirty-first day of August, nineteen hundred and twenty-three.

PART III

1 If any person who is at the end of the final accounting period the owner of any trade or business proves that the yearly average of the profits of the trade or business for the period between the first day of September, nineteen hundred and twenty-one, and the thirty-first day of August, nineteen hundred and twenty-five, both inclusive, is less than the amount of the percentage standard of the trade or business or, where there has not been one pre-war trade year, than the pre-war standard of profits based on the statutory percentage on the average amount of capital employed in the trade or business during the first accounting period, or that he has suffered a loss in respect of that period, and that the deficiency has arisen owing to the holding by him of trading stocks at falling prices, he shall be entitled to repayment of an amount equivalent to eighty per cent. of the total net deficiency for that period:

Provided that the amount repaid shall not exceed forty per cent. of one-half of the net excess profits on which duty was paid by that person in respect of the trade or business for the two years to the end of the final accounting period, and shall not exceed the aggregate amount of the duty paid by him in respect of the trade or business less the amount of any repayment made to him in respect thereof.

In computing the net excess profits for the two years aforesaid, a deduction shall be made in respect of any deficiency in the profits for any part of that period in respect of which the person aforesaid was entitled to a repayment or set-off of excess profits duty under subsection (3) of section thirty-eight of the principal Act.

2 Where the trade or business has, at any time after the thirty-first day of August, nineteen hundred and twenty-one, and before the thirty-first day of August, nineteen hundred and twenty-five, ceased or changed ownership any relief under this Part of this Schedule shall be computed as if the date of the cessation or change of ownership were substituted for the thirty-first day of August, nineteen hundred and twenty-five, in paragraph 1 of this Part of this Schedule, and as if in the proviso to that paragraph there were substituted for forty a number bearing the same proportion to forty as the length of the period from the thirty-first day of August, nineteen hundred and twenty-one, to the date of cessation or change of ownership bears to four years.

3 No relief shall be given under this Part of this Schedule to the owner of any trade or business in respect of which the Commissioners of Inland Revenue have accepted for purposes of duty a valuation of the whole or part of the trading stock at a constant price

PART IV

1 The profits of a trade or business for any period, and the pre-war standard of profits, whether a percentage standard or a pre-war standard of profits based on

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the statutory percentage on the average amount of capital employed in the trade or business during the first accounting period, shall, for the purposes of this Schedule, be computed on the basis prescribed by Part III. of the principal Act, as if such first-mentioned period were an accounting period, and, where the period for which the profits of a trade or business fall to be ascertained is a period less than a year, the amount of the pre-war standard of profits shall be proportionately reduced :

Provided that, where any period which would, if the section of this Act providing for the termination of excess profits duty had not passed, have been an accounting period of any trade or business within the meaning of the principal Act commences before and ends after the termination of the final accounting period of that trade or business, the profits of the first-mentioned period shall be computed on the basis prescribed by Part III. of the principal Act as if that period were an accounting period, and shall be apportioned between the time ending on and the time subsequent to the date of the termination of the final accounting period in proportion to the number of months or fractions of months before and after that date respectively.

- 2 The Commissioners of Inland Revenue shall have the same power to require for the purposes of a claim under this Schedule the furnishing of returns of profits and other particulars as they have under Part III. of the principal Act, as if the period for which the returns and particulars are required were an accounting period.
- 3 (1) Every person making a claim under this Schedule in relation to any trade or business shall, in support of the claim, and on being so required by the Commissioners of Inland Revenue by notice in writing, furnish to the Commissioners returns in writing containing such' particulars with respect to the trading stock of the trade or business in hand at any material date, including particulars with respect to the cost price, sale price, or value of the stock at any material date, and with respect to any other matters relevant to the claim, as the Commissioners may require.
- (2) Every return furnished in pursuance of this paragraph shall be signed by the person making the claim, or where the claim is made by a firm or by a company by one of the partners in the firm or by the secretary or some other responsible officer of the company, as the case may be, and shall, if the Commissioners so require, be certified by some person being a member of an incorporated society of accountants, and shall be verified by the production of such evidence and otherwise as the Commissioners may direct.
- 4 The provisions of the second paragraph of subsection (2) of section forty-four of the principal Act (which impose a penalty on persons failing to comply with any requirements of the Commissioners under that section) shall apply to any requirements of the Commissioners under paragraphs 2 and 3 of this Part of this Schedule as they apply to requirements under that section.
- 5 Nothing in this Schedule shall derogate from the power of the Commissioners of Inland Revenue to make assessments and collect duty for any accounting period without reference to any notice which may be given that the owner of the trade or business intends to claim relief under any part of this Schedule.
- 6 Relief under this Schedule shall be given by way of repayment to the person who is at the end of the final accounting period the owner of the trade or business, except in cases where it can be set off against any duty which has been assessed on him for any accounting period and remains unpaid.

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- 7 Any repayment under this Schedule shall, for purposes of income tax, be treated as a repayment of duty, and any set-off under this Schedule shall, for those purposes, be treated as a repayment of duty made at the date when the amount of the set-off is ascertained.
- 8 Relief granted under this Schedule shall not be taken into account for purposes of the section of this Act relating to the adjustment of duty over the aggregate period of charge.
- 9 Subsection (5) of section forty-five of the principal Act shall apply to a determination of the Commissioners of Inland Revenue under this Schedule as it applies to the amount of an assessment of duty.
- 10 For the purposes of this Schedule, a trade or business shall not be deemed to have changed ownership unless the Commissioners of Inland Revenue are satisfied that the change was made bona fide and was not an artificial or fictitious transaction.
- 11 In this Schedule the expression "duty " means excess profits duty.